Alberta Energy Regulator

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Proceeding 432

September 25, 2023

By e-mail only

Melcor Developments Ltd.
Attention: Michaela Davis, Reginal Manager
Community Development Division

RE: Reconsideration of the Alberta Energy Regulator's Decision, Dated April 20, 2022
Amended Application No.: 1932335 dated January 14, 2022
Qualico Developments West Ltd.
Reconsideration No.: 1940992
Decision on Participation of Melcor Developments Ltd. (Melcor)

Dear: Michaela Davis:

I am writing on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners presiding over proceeding 432 (the panel). The panel has decided to permit Melcor's participation in the hearing of the application, limited to filing written submissions, speaking to its submissions in the hearing and being available for questioning by the panel and parties adverse in interest to Melcor.

On July 13, 2023, the AER issued a notice of hearing to reconsider its April 20, 2022, decision on amended application no. 1932335 brought by Qualico Developments West Ltd. (Qualico).

On July 21, 2023, Qualico requested an extension to the deadline for submitting requests to participate. On July 26, 2023, AER amended the notice of hearing and set a filing deadline of August 10, 2023, for requests to participate, and August 17, 2023, for responses to requests to participate.

Qualico, Pembina Pipeline Corporation (Pembina) and Plains Midstream Canada ULC (Plains) were noted as parties to the hearing and asked to confirm their intention to participate in the hearing. On August 10, 2023, Qualico, Pembina, and Plains confirmed their intention to fully participate in the hearing.

On August 10, 2023, the AER received Melcor's letter requesting to participate in the hearing. Melcor did not file a statement of concern. Melcor wishes to participate in the hearing as it has a vested interest in the outcome and has faced similar difficulties in reaching surface crossing and cost-sharing agreements with another pipeline company, Keyera Corp. Melcor stated, "There is a lack of transparency through the review process, unclear regulations and inconsistencies on compensation and requirements for crossings." Melcor believes a formal dispute process is needed. Melcor further noted that the inconsistency in process leads to unforeseen and unpredictable costs, which affect the affordability of housing developments in Alberta. Melcor supported Qualico's amended application to have the AER direct Pembina and Plains to alter their pipelines, and for a 50/50 cost sharing between the pipeline companies and Qualico. Melcor requested to participate in the hearing to have its concerns entered on the record and to support Qualico's application.

Qualico did not provide a reply to Melcor's request to participate in the hearing. Pembina and Plains provided replies to the requests to participate, on August 17, 2023, and both stated that they took no position with respect to the filed requests to participate.

Section 34(3) of the *Responsible Energy Development Act* states that: "... a person who may be directly and adversely affected by the application is entitled to be heard at the hearing". In addition, the *Alberta Energy Regulator Rules of Practice* (Rules) give the hearing panel discretion to permit participation by persons who have a tangible interest and whose participation will materially assist without materially delaying the proceedings or repeating or duplicating evidence. The participation provisions in the Rules are intended to ensure a fair and efficient process and the development of a complete record that enables the panel to carry out its mandate.

Based on the panel's review of Melcor's submissions, Melcor has established it has a tangible interest in the subject of this hearing. Melcor demonstrated it has past experiences in dealing with matters relevant to this hearing. In the panel's view, Melcor's participation may materially assist the panel in making its decision on the application. Furthermore, the panel notes that the parties to this proceeding did not object to Melcor's application to participate. For these reasons and subject to further directions or rulings issued by the panel, the panel permits Melcor's participation in the hearing, to the following extent:

- filing written submissions according to the schedule to be set by the panel,
- speaking to its submissions in the hearing, and
- being available for questioning by the panel and by parties adverse in interest to Melcor.

The panel encourages participants to seek opportunities to coordinate their efforts with others, if possible, to avoid duplication of evidence and provide for an efficient and timely process. This does not preclude separate submissions and appearances at the hearing.

If you have any questions, please contact the undersigned at hearing.services@aer.ca.

Sincerely,

Elaine Arruda
Hearing Coordinator

cc: D. Brezina and A. Huxley, AER Panel Counsel
G. Fitch, McLennan Ross LLP (Qualico Developments West Ltd.)
S. Munro, Bennett Jones LLP (Pembina Pipeline Corporation)
D. Naffin, Bennett Jones LLP (Plains Midstream Canada ULC)
S. Fash, BILD Alberta
C. Nicholas, MLC Group Inc.
J. Marchese and P. Shaver, Avillia Developments Ltd.
K. Rowe, Cantiro Group LP
K. Anderson, Urban Development Institute – Edmonton Metro
S. Duncanson, Osler, Hoskin & Harcourt LLP (Keyera Corporation)
I. Radzichowsky and K. Welland, Secure Energy Services Inc.
E. Dixon and M. Cherkawsky, McLennan Ross LLP (Brookfield Residential (Alberta) LP)
S. Gerein, Qualico Developments West Ltd.